

**WILLIAMSBURG
BOARD OF ZONING APPEALS
MINUTES**

January 3, 2006

The regular meeting of the Williamsburg Board of Zoning Appeals was held on Tuesday, January 3, 2006 at 4:00 p.m. in the Williamsburg Municipal Building, 401 Lafayette Street.

CALL TO ORDER and ATTENDANCE

Chairman Knudson called the meeting to order and welcomed new Board member, Stewart Goddin, who replaces William Kafes whose term on the Board expired. Present in addition to Mrs. Knudson and Mr. Goddin were Board members Carr and White. Board member Lamson was absent. Staff members present were Zoning Administrator Murphy and Secretary Scott.

PUBLIC HEARINGS

Chairman Knudson stated that all four members of the Board present today have visited the site. Mrs. Knudson then introduced the following case:

BZA #06-001: Request of Gregory D. Banks for two variances to Section 21-167 of the Zoning Ordinance to demolish the existing dwelling for construction of a new single-family dwelling on the property: (1) decrease the side yard from 10 feet to 5.6 feet; (2) decrease the side yard along Roland Street from 17.5 feet to 15.4 feet. The property is located at 1501 Ernestine Avenue, Williamsburg Tax Map Number 372-(0A)-00-023 and is zoned Single Family Dwelling District RS-2. Approved.

Chairman Knudson asked the applicant, Mr. and Mrs. Gregory Banks, if they had any comments. Applicant Lisa Banks said her husband's grandfather built the house over 60 years ago, and it now has rotting floors, poor insulation, electrical, plumbing and serious leaking problems. During their planning to renovate the house, they found it would cost more to rehabilitate than to tear down and build a new structure. Mrs. Banks stated that at the time the 800 square foot home was built in the 1940s, there were no setback requirements on the 50 x 100' lot. The house they wish to build will have the same width as the current house, but they looked long and hard for acceptable plans with the same length, to no avail. Many years ago the City of Williamsburg needed 10 feet on the front and side of the property for a right-of-way and the elder Banks sold the land to the City. If this property hadn't transferred, they wouldn't need to ask for the variances today. Mrs. Banks stated that if the new construction is permitted, it would be a win-win situation for both the neighborhood and the City of Williamsburg.

Wilnette Banks, Mr. Banks' mother, was present and confirmed that her father had wanted to improve the neighborhood and would be pleased with this reconstruction.

Greg Banks noted that he was born and raised in this home and he searched the internet, as well as other sources, looking for a comparably small-sized dwelling.

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Board member White asked what limitations the Banks are working with and why they need relief from the required setbacks. Mr. Banks said they need to have 10' on one side, 17½ feet on the street side and 35' for the front setback. Mrs. White noted that the narrowness of the lot would constitute the hardship needed in order for a variance to be approved.

There being no further comment the public hearing was closed.

Mr. Carr moved that the variances be granted based on the demonstrated hardship and the fact that the Banks would not have to ask for the variances if not for the property transfer for the right-of-way. Mrs. White seconded the motion noting that the Supreme Court is very limiting in regard to variances and a hardship must be clearly demonstrated. According to Zoning Ordinance Section 21-97(b)1. "When a property owner can show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter, or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property immediately adjacent thereto, the strict application of the terms of the applicable provisions of this chapter would effectively prohibit or unreasonably restrict the utilization of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter."

Mrs. White asked if the demonstrated hardship is not generally shared by other properties in the same zoning district and the same vicinity and Mrs. Murphy answered that this lot is a corner lot which makes it even more restrictive.

Mr. Goddin added that the granted variances will allow more commonality with other structures on the block, will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variances.

Mrs. White said a house has a useful lifespan and this particular house appears to be close to the end of its lifespan, if not the end.

The motion carried by roll call vote of 4-0.

Recorded vote on the motion:

Aye: Carr, White, Knudson, Goddin
No: None
Absent: Lamson

Resolution of approval is attached to these minutes.

OLD BUSINESS – None

NEW BUSINESS

"Rules and Procedures" – Review and Approve

Mrs. Murphy stated that prior to making the Board of Zoning Appeals' "Rules and Procedures" available online, the Board needs to review and approve the document. The Board discussed time limits for speakers at meetings and decided to leave them as currently noted. They also made a few minor housekeeping changes.

Election of Officers for 2006

Mrs. Knudson suggested Mrs. White for Chairman, Mr. Lamson for Vice-Chairman and Mr. Carr for Secretary. Mr. Carr stated Mr. Kafes was responsible for implementing the rotating chair position several years ago, and he felt it was a good policy so that all Board members would have an opportunity of chairing the BZA. Mrs. Knudson agreed and added that she is a big believer in the rotation practice. Mr. Goddin moved that the slate of officers for 2006 be Chairman Mrs. White, Vice-Chairman Mr. Lamson and Secretary Mr. Carr. Mrs. Knudson seconded the motion which carried by roll call vote of 4-0. The Board agreed that if Mr. Lamson, who was not present at the meeting, wishes not to be Vice-Chairman, another Board member will fill the position.

Recorded vote on the motion:

Aye: Carr, White, Knudson, Goddin
No: None
Absent: Lamson

MINUTES

Mrs. White made corrections to the minutes of the December 6, 2005 meeting. The corrected minutes were approved by a vote of 3-0-1.

Recorded vote on the motion:

Aye: Carr, White, Knudson
No: None
Abstain: Goddin
Absent: Lamson

OTHER

Attendance Policy

Board members discussed the Attendance Policy adopted by City Council on July 14, 2005 and effective January 1, 2006. They noted that Board members must attend at least 75% of regularly scheduled meetings in a calendar year or be deemed to have rendered an implied resignation of that appointment.

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Comments on Mrs. Knudson's Tenure as Chairman

The Board thanked Mrs. Knudson for her leadership as Chairman and noted their appreciation for the progress that has been made on a number of fronts.

BZA Work Session

The Board will have a work session on January 31, 2006 at 4:00 p.m. in the third floor conference room at the Williamsburg Municipal Building to discuss several topics of concern. Mrs. Murphy agreed the best course of action would be for the Board to discuss these items of concerns and submit a memorandum outlining these concerns to the Planning Commission.

There being no further business the meeting adjourned at 4:45 p.m.

Respectfully submitted,

Elizabeth L. White, Chairman
Board of Zoning Appeals